

REMARKS

Applicants reply to the Office Action mailed on January 10, 2008 within a one-month extension of time to the shortened statutory period for response which expired on April 10, 2008. Claims 1-11 are pending in the application and the Examiner rejects claims 1-11. Applicants cancel claims 2, 3, 5, 8, and 10 without prejudice to submitting claims with similar subject matter in this or other applications; and add new claims 12-27, including new independent claim 21. Support for the amendments and new claims may be found in the originally-filed specification, claims, and figures. Applicants submit that no new matter has been introduced with these amendments and new claims. Applicants respectfully request reconsideration of this application.

Applicants acknowledge the Examiner's request that Applicants point directly to any of the submitted IDS documents which would advance and/or expedite the process. With respect to Applicants' duty under 37 C.F.R. § 1.56, Applicants submit that they have satisfied that duty by the submission of the Information Disclosure Statements made of record in this application. However, in order to expedite prosecution, Applicants note that Marion, U.S. Patent No. 6,073,840 has been cited in other related applications, including in U.S. Patent No. 7,239,226. Applicants submit, however, that the amended claims are allowable over Marion, that Marion does not anticipate and/or render obvious Applicants' amended claims, and that Applicants do not admit that Marion is either more or less relevant than other art made of record.

The Examiner rejects claims 1-11 under 35 U.S.C. § 102(b) as being anticipated by Nicholas et al., U.S. Patent No. 6,961,448 ("Nicholas"). Applicants believe, however, the Examiner meant to reject the claims under 35 U.S.C. § 102(e) because that was the paragraph cited in the Office Action, and Nicholas was not issued until November 1, 2005, which was after the filing date of the present application. If, in fact, the Examiner meant to reject the claims under § 102(b), Applicants traverse that rejection because Nicholas was not patented more than one year prior to the filing date of the present application. In any case, Applicants do not concede that Nicholas is in fact prior art with respect to this application and Applicants reserve the option to antedate Nicholas.

The Examiner states that Nicholas discloses "detecting a proffered biometric at a sensor to obtain a proffered biometric sample; verifying said proffered biometric sample; and storing said proffered biometric sample to authorize a transponder transaction" (Office Action, p. 3). Nicholas, however, discloses only that the "identification data may include a fingerprint, an

image, iris scan, voiceprint, or other similar biometric traits. The system analyzes the input by preferably comparing it with stored data. If a match is confirmed, access is granted based on the authorization level” (Col. 6, l. 50-54).

Nicholas, however, does not disclose or contemplate at least “detecting a proffered biometric sample at a biometric sensor; associating said proffered biometric sample with at least one of a Radio Frequency (RF) device, a user identifier, and a transaction account; *verifying said proffered biometric sample in order to activate said RF device* and confirm said proffered biometric sample; storing said proffered biometric sample as a registered biometric sample; *receiving a transaction request from said RF device, wherein said transaction request comprises a transaction biometric sample*; and authorizing said transaction request when said transaction biometric sample matches said registered biometric sample” as recited in amended independent claim 1 (emphasis added). Applicants respectfully submit that amended independent claim 1 is allowable over Nicholas.

Moreover, Nicholas does not disclose or contemplate at least “a communications device *configured to receive a second proffered biometric sample associated with an RF device*, wherein said ASR is configured to verify said second proffered biometric sample in order to *activate said RF device . . . an RF Identification (RFID) reader configured to receive a transaction request from said RF device, wherein said transaction request comprises a transaction biometric sample*, an encrypted device account code, and a unique device identification code . . . wherein said authentication circuit is further configured to *compare said transaction biometric sample to said registered biometric sample* in order to authenticate said RF device and facilitate said RF transaction” as recited in new independent claim 21 (emphasis added). Applicants respectfully submit that new independent claim 21 is allowable over Nicholas.

Dependent claims 4, 6-7, 9, 11-20 and 22-27 variously depend from independent claims 1 and 21, so dependent claims 4, 6-7, 9, 11-20 and 22-27 are allowable over Nicholas for the reasons set forth above, in addition to their own unique features.

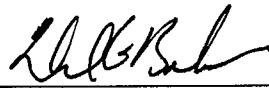
The claims of the present application are different and possibly broader than the claims pursued in the parent applications. To the extent any prior amendments or characterizations of the scope of any claim or referenced art could be construed as a disclaimer of any subject matter supported by the present disclosure, Applicants hereby rescind and retract such disclaimer.

Accordingly, the references previously construed in the parent applications may need to be revisited.

In view of the above remarks, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited reference. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject application. The Commissioner is authorized to charge any fees due to Deposit Account No. 19-2814.

Respectfully submitted,

Dated: May 9, 2008



David G. Barker
Reg. No. 58,581

SNELL & WILMER L.L.P.
400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6376
Fax: 602-382-6070
Email: dbarker@swlaw.com